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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,469	12/30/2003	John C. Montagna	7719-108	7063

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EXAMINER	
FISCHER, JUSTIN R	

ART UNIT	PAPER NUMBER
1791	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/748,469	MONTAGNA ET AL.	
	Examiner	Art Unit	
	Justin R. Fischer	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 20-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 20-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. It is initially noted that this communication is being mailed since the previous communication was erroneously identified as a Non Final Rejection on the PTO-326 (identified as Final Rejection in the body of the rejection). A shortened statutory period for reply is set to expire 1 month or 30 days, whichever is longer, from the mailing date of this communication.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 4, 20-21, 24, 26-27, 29 and 31-32 stand rejected under 35 U.S.C. 102(e) as being anticipated by Myers (US 6857683, previously cited).

With respect to claim 1, Myers teaches a method of manufacturing a thermoformable (column 3, lines 48-58) composite panel by forming a first lower panel 30 having a peripheral lip and a plurality of raised projections 32, wherein each projection defines a coplanar surface, forming a second upper panel 28 having a substantially planar surface and a peripheral lip, wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel (Figure 4), applying an adhesive to coplanar surfaces of the first panel (column 3, lines

59-64), joining the peripheral lip of the first panel and the peripheral lip of the second panel (column 4, lines 51-53), and securing the second panel to the first panel such that the coplanar surfaces are adhered to the upper panel and the peripheral lips remain in substantial proximity to form the composite panel (Figure 4).

As to claim 26, all the limitations were addressed above with respect to claims 1 and 20-21 but applying adhesive to the peripheral lips and the composite panel being a tonneau cover. The reference teaches applying adhesive to the peripheral lips (column 4, lines 51-53; column 3, lines 62-64). The reference also teaches the composite panel being a tonneau cover (column 1, lines 11-12).

Regarding claims 2, 4, 20-21, 27, 29 and 31-32, the reference teaches such.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 2, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greve et al. (US 5273606, previously cited) in view of Myers et al. (US 6857683).

With respect to claim 1, Greve teaches a method of manufacturing a thermoformable (column 1, lines 18-19) composite panel, that can used as a variety of parts in a vehicle (column 1, lines 13-14; column 2, lines 60-63), by forming a first lower panel 12 having a peripheral lip and a plurality of raised projections/ribs, forming a second upper panel 14 having a substantially planar surface and a peripheral lip 18,

wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, joining the peripheral lip of the first panel and the peripheral lip of the second panel, and securing the second panel to the first panel such that the peripheral lips remain in substantial proximity to form the composite panel (Figures 1 and 3; column 1, lines 13-22; column 2, lines 56-63; column 3, lines 10-17).

It is unclear as to whether Greve teaches each of the projections/ribs defining a coplanar surface, applying an adhesive to the coplanar surfaces of the first panel, and the coplanar surfaces being adhered to the upper panel.

It is known in the art to make a composite panel, which can be used as a variety of parts in a vehicle, by securing a lower panel having raised projections/ribs that each define a coplanar surface to an upper panel using adhesive that is applied to the coplanar surfaces in addition to adhesively joining the peripheral lips of the panels, as taught by Myers. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have the plurality of projections/ribs of Greve each define a coplanar surface and apply adhesive to the coplanar surfaces such that the coplanar surfaces are adhered to the upper panel because such is known in the art, as taught by Rashid and/or Fujimoto and/or Myers, where this additional adhesive bonding between the lower and upper panels would help prevent delamination.

Regarding claims 2 and 24, the reference teaches such.

6. Claims 20-21, 26-27 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greve et al. and Myers as applied to claim 1 above, and further in view of Corder et al. (US 6568495).

Regarding claims 20-21, it is noted that Greve teaches the reinforced composite panel being used for a variety of vehicle body parts, such as a door or lift gate (column 1, lines 13-14; column 2, lines 60-63). It is known in the art to use the same reinforced composite panel for a variety of moveable vehicle body parts, including a trunk or deck lid (equivalent to a lift gate), as taught by Corder (column 1, lines 48-51), and therefore it would have been obvious to also use the panel of Greve for a tonneau cover.

As to claim 26, all the limitations were addressed above with respect to claims 1 and 20-21 but applying adhesive to the peripheral lips. Greve teaches such (column 3, lines 10-16).

As to claims 27 and 31-32, these limitations were addressed above with respect to claims 2, 21 and 24.

7. Claims 1-3, 5, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seksaria (US 5124191, previously cited) in view of Myers et al. Greve et al.

With respect to claim 1, Seksaria teaches a method of manufacturing a thermoformable (column 1, lines 35-36 and 43-46) composite panel, that can used as a variety of parts in a vehicle (column 1, lines 5-10), by forming a first lower panel 14 having a plurality of raised projections, wherein each projection defines a coplanar surface, forming a second upper panel 12 having a substantially planar surface, applying adhesive 19 to at least the coplanar surfaces of the first panel, and securing the second upper panel to the first lower panel such that coplanar surfaces are adhered to the upper panel (Figures 1-4; column 3, lines 37-52; column 3, line 60 – column 4, line 5).

It is unclear as to whether Seksaria teaches the first and second panels having peripheral lips, wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, joining the peripheral lips, and securing the second panel to the first panel such that the peripheral lips remain in substantial proximity.

It is known in the composite panel art, as it relates to a reinforced panel that can be used as a variety of parts in a vehicle, for both the lower and upper panels to have peripheral lips, wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, to join the peripheral lips, and to secure the second panel to the first panel such that the peripheral lips remain in substantial proximity, as taught by Myers and/or Greve. Therefore, it would have been obvious use first and second panels having peripheral lips for that of Seksaria, wherein the peripheral lip of the first panel is configured to fit snugly against and within the peripheral lip of the second panel, to join the peripheral lips, and to secure the second panel to the first panel such that the peripheral lips remain in substantial proximity because such is known in the art, as taught by Myers and/or Greve, where this configuration eliminates any jagged edges and makes the composite panel easier to install.

Regarding claims 2-3, Seksaria teaches such (Figure 4; column 4, lines 15-18).

Regarding claim 5, Seksaria teaches second elongate projections having tapered sides extending from the lower panel and having a uniform height less than that of the plurality of raised projections (Figure 2 – four projections contacting upper panel on left

side of composite panel have uniform height and are shorter than two projections contacting upper panel on right side of composite panel – also see Figures 1 and 4; column 2, lines 20-32; column 4, lines 5-9).

Regarding claim 24, Seksaria in view of Fujimoto and/or Myers and/or Greve teaches such.

8. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seksaria and Myers and/or Greve as applied to claim 1 above, and further in view of Blankenburg et al. (US 4906508, previously cited) and/or Blankenburg et al. (US 5242735, previously cited).

Regarding claim 3, if it is not taken that Seksaria teaches frusto-conical projections such would have been obvious given that raised projections of a lower panel having this configuration is known in the vehicle art when securing a lower panel to an upper panel, as taught by Blankenburg '508 (Figures 17-19; abstract; column 2, lines 29-39) and/or '735 (column 1, lines 7-15; column 4, lines 19-35), especially since one reading Seksaria would readily appreciate that the reference is not limited to a particular geometry for the projections (column 4, lines 15-18).

Regarding claim 4, Seksaria in view of Blankenburg '508 and/or '735 teach such.

9. Claims 20-21, 26-28 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seksaria and Myers and/or Greve as applied to claim 1 above, and further in view of Corder et al.

Regarding claims 20-21, it is noted that Seksaria teaches the reinforced composite panel being used for a variety of vehicle body parts, such as a hood (column

1, 5-10). It is known in the art to use the same reinforced composite panel for both the hood and tonneau cover of a vehicle, as taught by Corder (column 1, lines 48-51), and therefore it would have been obvious to use the panel of Seksaria for a tonneau cover as an alternative to using it as a hood.

As to claim 26, all the limitations were addressed above with respect to claims 1 and 20-21 but applying adhesive to the peripheral lips. Seksaria in view of Myers and/or Greve teaches such.

As to claims 27-28 and 30-32, these limitations were addressed above with respect to claims 2-3, 5, 21 and 24.

10. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seksaria and Myers et al. and/or Greve and Corder et al. as applied to claim 26 above, and further in view of Blankenburg et al. '508 and/or Blankenburg et al. '735.

Regarding claim 28, if it is not taken that Seksaria teaches frusto-conical projections such would have been obvious given that raised projections of a lower panel having this configuration is known in the vehicle art when securing a lower panel to an upper panel, as taught by Blankenburg '508 (Figures 17-19; abstract; column 2, lines 29-39) and/or '735 (column 1, lines 7-15; column 4, lines 19-35), especially since one reading Seksaria would readily appreciate that the reference is not limited to a particular geometry for the projections (column 4, lines 15-18).

Regarding claim 29, Seksaria in view of Blankenburg '508 and/or '735 teach such.

Response to Arguments

11. The arguments regarding Rashid et al. and Fujimoto et al. are moot under the new grounds of rejection necessitated by amendment.

Applicant's arguments filed 09/20/2007 have been fully considered but they are not persuasive.

The arguments regarding Myers et al. are not commensurate in scope with the claims, which do not mention support members. The recessed portions 32 disclosed by Myers et al. project above the rest of the support panel 30 relative to the tonneau cover 28 (see figure 3) and are therefore equated to applicant's "plurality of raised projections."

Regarding Corder, the reference defines hoods and tonneau covers to be a type of rigid body panel of any basic structure (See col. 3 lines 14-16 in Corder). Therefore, one reading the reference would appreciate that the basic structure of a hood would be the same as a basic structure of a tonneau cover. The issue of whether or not the particular rigid body panel used by Corder (i.e. one that is "movable relative to the adjacent and stationary vehicle body") is of the same weight and materials as that disclosed by Fujimoto does not detract from this general teaching of Corder. See col. 3 line 16 in Corder.

Regarding Greve, in the rejection under 103(a) based on Greve et al. in view of Rashid et al. and/or Fujimoto, Greve is not used to modify the structure of Fujimoto and Rashid et al. to include a hem in this rejection.

Regarding Seksaria, the reference does not exclude using planar surfaces. In the most general embodiment, "the present invention is directed to a structural panel for use wherever it is desired to have at least one exposed smooth metallic finish surface and a strong yet light in weight structural support" (col. 1 lines 23-27 in Seksaria). Seksaria provides a configuration that is not uniform (col. 1 lines 60-65 in Seksaria) as an example that is nonlimiting.

As to the argument regarding Blankenburg, although the most general embodiment f the reference applies a structural support of any material, the embodiment relied on is that directed to vehicles (see the non final office action mailed 5/15/2007 and Blankenburg col. 1 lines 11-14 and col. 2 lines 9-10). It is within the purview of one of ordinary skill in the art to select the optimum base for the projections out of the two choices of a "complex polygon" or a "rounded or circular figure" (col. 4 lines 19-30). It is noted that because the projections have a flat top (col. 4lines 34-35), the selection of a "rounded or circular" base would form a frusto-conical projection as required by claim 3.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin R. Fischer whose telephone number is (571) 272-1215. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin Fischer
/Justin R Fischer/
Primary Examiner, Art Unit 1791